

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	:	
On Its Own Motion	:	
-vs-	:	
All Telecommunications Carriers holding	:	98-0497
847 NXX Codes and Illinois Bell Telephone	:	
Company d/b/a Ameritech Illinois in its	:	
Capacity as Number Administrator	:	
Investigation into issues relating to the	:	
exhaustion of telephone numbers in the	:	
Chicago Metropolitan area.	:	

**ORDER**

December 16, 1998

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**ORDER**

**I. INTRODUCTION**

This proceeding was initiated with this Commission's entry of an Investigative Order against all 847 NXX code holders subject to the Commission's Order entered in ILL. C.C. Dockets 97-0192/97-0211 (the "Area Code Order") on May 11, 1998. In the Area Code Order the Commission set out conservation methods designed to delay or avoid the need for relief in the 847 Number Plan Area ("NPA") and additional Chicago metropolitan NPAs regarding the exhaustion of telephone numbers.

Attached as an appendix to the Investigative Order was a copy of the Staff Report to the Commission dated June 25, 1998. In the Staff Report, Staff recommended that the Commission initiate an investigation of compliance with the Area Code Order and that the Commission investigate the specific irreversible action that will start the implementation of the overlay back up plan ordered in the Area Code Order.

In its Investigative Order, the Commission ordered the initiation of the proceeding to:

- a) ensure that all 847 NXX code holders subject to the Area Code Order are complying with the conservation measures of the Order;
- b) specifically identify the irreversible action and determine when it will occur; and
- c) investigate the possibility of a mandatory NXX-X thousand block return to the number pooling administrator;
- d) investigate raising the contamination threshold for any NXX-X thousand blocks to be returned; and
- e) investigate the number administrator releasing the reserve of NXX codes for new carriers.

The Commission also ordered that parties to the Area Code Docket be made parties to the instant proceeding, that Ameritech Illinois and all telecommunications carriers holding

847 NXX codes listed in Appendix A of the Investigative Order be named as Respondents in this proceeding and that Respondents provide the Commission Staff with responses to the questions presented by the Commission in Appendix B to the Investigative Order by July 8, 1998. Appendix B of the Investigative Order was subsequently amended via the Hearing Examiner's July 9, 1998, ruling. This ruling required the parties to also provide the Citizens Utility Board ("CUB") with responses to the questions presented by the Commission.

After entry of the Commission's Investigative Order in this proceeding, appearances and/or petitions to intervene were filed by the following parties: Illinois Bell Telephone Company, D/B/A Ameritech Illinois ("Ameritech Illinois"); Southwestern Bell Mobile Systems, Inc. D/B/A Cellular-One Chicago ("Cellular One"); the Cook County State's Attorney's Office ("CCSA"); Ameritech Cellular Services, Inc. ("Ameritech Cellular"); Allegiance Telecom ("Allegiance"); and AT&T Communications of Illinois, Inc. ("AT&T"). On November 30, 1998, The Personal Communication Industry Association ("PCIA") filed a Petition to Intervene. This Petition was granted.

The June 29, 1998, Investigative Order directed the Hearing Examiner to submit to the Commission a post-exceptions proposed order for its consideration by August 4, 1998, with the Commission anticipating action during the week of August 10 through August 14. These dates were based on a previous implementation date of November 8, 1998. This was the date that an overlay of the 847 area code would have occurred if such a relief plan were necessary.

At a status hearing held on July 28, 1998, the hearing Examiner was informed that additional 847 NXX codes had been returned to the number administrator. This development led to an industry agreement that the overlay implementation date should be delayed to January 23, 1998. In light of these developments, the number administrator, Ameritech Illinois, stated that they could delay any announcement of an overlay until October 23, 1998. The Commission then directed the Hearing Examiner to extend the schedule in the instant proceeding accordingly noting that the additional time would result in a more complete record and additional time for the Commission to make a determination. The schedule was extended via an Interim Order entered by the Commission on August 3, 1998.

Pursuant to the direction of the Hearing Examiner, all direct testimony was due to be filed on August 7, 1998 and all rebuttal testimony was to be filed on August 12, 1998. An evidentiary hearing was scheduled for September 4, 1998.

Ameritech Illinois was represented by counsel and presented the testimonies of Brian Baldwin, Technical-Regulatory Liaison and Cassie E. Yang, Manager, Number Planning. CUB was represented by counsel and presented the testimony of J. Seamus Glenn, Associate Director. AT&T was represented by counsel and presented the testimony of Lila McClelland, Regulatory Manager of State Government Affairs. Allegiance was represented by counsel and presented the testimony of Rhea Kwon, Senior Analyst-

Network Administration. MCI was represented by counsel and presented the testimony of Dennis L. Ricca, Senior Regulatory Analyst for Regulatory and Legislative Affairs-Northern Region. CCSA was represented by counsel and presented the testimony of Beth O'Donnell, an independent consultant retained to offer testimony in the instant proceeding. BeeperMart, Inc. was represented by counsel and presented the testimony of Stephen Osborn, Systems Manager. Staff was represented by counsel and presented the testimony of Brent A. Struthers, Economic Analyst-Telecommunications Division.

No other party presented testimony. At the conclusion of the September 4, 1998 hearing, the record in this proceeding was marked "Heard and Taken". The Hearing Examiner then set a briefing schedule calling for all initial briefs to be filed on September 16, 1998 and all reply briefs to be filed on September 23, 1998.

In a Motion to supplement the record filed by Ameritech Illinois, the Hearing Examiner was again informed that additional 847 NXX codes had been returned to the number administrator. An industry agreement was reached that the overlay implementation date should be delayed to April 17, 1999. The number administrator, Ameritech Illinois, stated that they could delay any announcement of an overlay until after December 15, 1998.

On September 28, 1998, the FCC released an order ("FCC Order") addressing the authority delegated by the FCC to state commissions with respect to numbering issues. Second Report and Order and Memorandum Opinion and Order, FCC Order 98-224, CC Docket No. 96-98 ("the FCC Order"). The parties to this docket filed supplemental briefs and reply briefs addressing the impact of this decision on this docket.

A Hearing Examiner's Proposed Order was issued on November 13, 1998. The following parties filed Exceptions thereto were filed by the following parties: Ameritech, CUB/AG, CCSA, AT&T, MCI, Cellular One, Nextel, BeeperMart, Allegiance and Lockheed Martin. Reply Briefs on Exceptions were filed by Ameritech, CUB/AG, CCSA, AT&T, Cellular One, Nextel, BeeperMart, Allegiance, PCIA and Lockheed Martin. The Commission has considered these exceptions and modified this Order where necessary.

## **II. THE FCC DECISION**

In the Order, the FCC addressed a Petition for Declaratory Ruling filed by a group of wireless carriers challenging a Pennsylvania Public Utility Commission Order concerning area code relief. The Pennsylvania Commission Order required a geographic split for area code 412, but did not order traditional area code relief for the 610, 215 and 717 area codes. Instead, the Pennsylvania Commission Order required implementation of transparent area code overlays and, eventually, number pooling, to relieve the need for additional NXX codes in area codes 215, 610 and 717.

Numbers from the transparent area codes would be reached by using remote call forwarding. The Pennsylvania Commission described the use of the transparent area

codes as an interim measure to help relieve the need for additional NXX codes, and stated that this relief was optional for competitive local exchange carriers and for wireless carriers, who could choose to participate or wait for assignment of NXX codes in the old area code under the lottery procedure. In addition to calling for the implementation of number pooling once LNP became available, the Pennsylvania Commission also imposed certain restrictions on NXX code assignment and mandated the return of certain NXX codes.

The Pennsylvania Commission subsequently entered a second order clarifying certain portions of its first order. In addition, Pennsylvania Commission entered two additional orders which tentatively approved a geographic split of the 717 NPA along with the creation of a new area code which would overlay the 215 and 610 area codes.

The FCC Order discussed its plenary jurisdiction over numbering issues that pertain to the United States which was granted in Section 251 (e)(1) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. 47 U.S.C. § 151 et seq. ("the 1996 Act"). The FCC concluded that it, and not the states, had exclusive jurisdiction over portions of the North American numbering plan that pertain to the United States. The FCC noted that its regulations generally require states to act consistently with federal numbering guidelines which were designed to ensure the fair and timely availability of numbering resources to all telecommunications carriers. The FCC also cited to its Local Competition Second Report and Order entered in CC Docket No. 96-98 as FCC 96-333 on August 8, 1996, wherein it delegated the authority to implement new area codes to state commissions, but retained its broad authority over numbering issues in general. Finally, the FCC articulated the fact that it specifically declined to delegate to states the task of NXX code allocation or assignment and that to do so would "vest in fifty one separate commissions oversight of functions the FCC centralized in the new North American Numbering Plan Administrator ('NANPA'). The FCC noted that a uniform, nationwide system of numbering (including the allocation of NXX codes) was essential to the efficient delivery of telecommunications services to American citizens.

The FCC reiterated that it retains exclusive authority over numbering. The authority delegated by the FCC to states is limited to implementing one of three forms of NPA relief: a) a geographic split; b) an area code boundary realignment; and c) an area code overlay. The FCC did not delegate to states the authority to allocate NXXs.

In its order, the FCC noted that conservation measures, including number pooling, are not defined as NPA relief. The FCC also determined that a state which orders NXX code rationing or NXX code conservation measures is acting outside the scope of its FCC delegated authority. Furthermore, the conservation measures should delay the declaration of jeopardy by the code administrator and provide additional time for the implementation of NPA relief once a jeopardy has been declared. The FCC also determined that number pooling is not a substitute for NPA relief and that thousand block pooling, thousand block reclamation, the return of NXX codes, and NXX code rationing are part of CO code administration.

The FCC also determined that a state may only impose an NXX rationing plan if the state commission has decided on a specific form of area code relief, has established an implementation date, and the industry is unable to agree on a rationing plan. A state commission may not impose a rationing plan on its own.

The FCC further determined that state commissions may order a certain number of NXXs within an NPA be reserved for future use in number pooling. However, if the non-reserved NXXs exhaust, the reserved NXXs must be opened up for general assignment. Furthermore, assignment of an NXX may not be denied because it is being saved for number pooling. Finally, the FCC noted that state number pooling trials do not necessarily need to be consistent with current industry CO Code Administration guidelines, but it is recommended that they be consistent.

In its Order, the FCC recognized that states may implement trials of number pooling as long as carrier participation is voluntary. The FCC also determined that state commissions do not have authority to order a return of NXX codes or thousand blocks as part of a relief plan or a number pooling trial. The FCC states in its Order as follows:

We clarify that state commissions do not have the authority to order return of NXX codes or 1,000 number blocks to the code administrator. First, a state commission may not order such a return pursuant to a pooling trial. As discussed below, we decline to grant states the authority to order mandatory number pooling. Thus, states do not have the authority to order the return of a partial or entire NXX code or a 1,000 block as part of a number pooling trial. Further, a state commission may not order the return of an NXX code or a 1,000 block pursuant to a number rationing scheme implemented as part of a state-ordered area code relief plan. Such actions fall outside of the authority granted the states to initiate traditional area code relief, and would interfere with the code administrator's functioning pursuant

to rules delegating to the code administrator the authority to manage the United States CO code numbering resource. Order, pp. 17-18, §24.

The FCC determined that Pennsylvania's reliance on number pooling and transparent overlays discriminated against wireless and non-LNP capable carriers because it did not ensure them access to numbering resources. The FCC also determined that if carriers felt that a rationing plan was discriminatory, they may file with the FCC for relief. The FCC may order the number administrator to implement NPA relief

The FCC determined that the Illinois number pooling trial falls outside of the guidelines the FCC adopted. However, the FCC granted Illinois limited authority to continue its pooling initiative despite its mandatory nature. In paragraph 30 of the FCC Area Code Order, for example, the FCC held:

Although the Illinois number pooling trial falls outside of the guidelines that we adopt herein, we acknowledge Illinois has taken steps to ensure that the trial will not impede our NPA relief guidelines and efforts to initiate national number pooling standards. We therefore grant to Illinois limited authority to continue its pooling initiative, in spite of the trial's mandatory nature.

FCC Order at 21, par. 30

The FCC noted that the Illinois trial did not interfere with the guidelines established by the FCC because Illinois had implemented an NPA relief back-up plan that would take effect upon NXX depletion. The FCC also noted that under the Illinois number pooling trial, only LNP capable carriers were subject to the trial and wireless carriers would not be required to participate in the trial until they had implemented LNP. The FCC clearly articulated the fact that the grant of authority was limited to Illinois only.

### **III. SUMMARY OF THE PARTIES' POSITIONS**

#### **Ameritech Illinois**

Ameritech Illinois recommends that, in light of the FCC Order, the Commission should dismiss all issues in this proceeding relating to enforcement of conservation measures, the mandatory return of thousand blocks, or any increase in the contamination threshold of thousand blocks to be returned. Ameritech Illinois Br. at 4-16. In the alternative, Ameritech Illinois recommends the Commission promptly seek reconsideration and clarification from the FCC Order, whether the Commission has any continuing authority under the Illinois exemption granted by the FCC to pursue these initiatives. Id. at 8.

In its first round of briefs in this docket, prior to the issuance of the FCC Order, Ameritech Illinois recommended a four-point proposal for Commission consideration. First, Ameritech Illinois recommended that all telecommunications carriers and CMRS providers should comply with the existing number conservation measures, and the Commission should take such action as it deems necessary and appropriate to ensure that compliance.

Second, Ameritech Illinois recommended, prior to the issuance of the FCC Order, that all wireline carriers should be ordered to return to Lockheed Martin, for addition to the number pool, all of their clean thousand blocks and thousand blocks with up to 10% contamination, except those thousand blocks which the carrier will need to meet its own customer requirements within the next six months. For any thousand block which a carrier holds back based on its own customer requirements, the carrier should be required to submit a Months to Exhaust worksheet, or similar document, to Lockheed Martin demonstrating that it will need the thousand block within six months. Ameritech Illinois asserts that the Commission should adopt such audit and enforcement measures as it deems necessary and appropriate to ensure carrier compliance with this requirement.

Third, Ameritech Illinois asserts that the Commission should take definitive action to determine the quantity of 847 NXX codes which must be reserved for new entrants under FCC rules. This is essential to ensure compliance with the FCC rule and so that the local number administrator will know how many 847 NXX codes remain for assignment to other carriers. Ameritech Illinois states that the local number administrator has attempted to contact new entrants to determine their intentions but has had limited success. Ameritech Illinois states that nine carriers have affirmatively stated their need for an 847 NXX code, and numerous carriers have indicated they will not need a code. However, Ameritech Illinois notes that 20 carriers have made no response at all. Ameritech Illinois further notes that the local number administrator also has had no contact with potential wireline service providers that currently are seeking local exchange certification from the Commission or with potential new CMRS providers that may not require Commission certification.

Ameritech Illinois recommends that the Commission direct the Clerk of the Commission to send a certified letter in the Commission's name to all of the currently authorized telecommunications carriers and CMRS providers and to all of those entities currently seeking local exchange certification from the Commission or planning to provide CMRS services. Ameritech Illinois states that the letter would explain the FCC rule and the jeopardy situation in the 847 NPA and would require the recipient to inform the Commission in writing within a specified period whether it intended to provide local exchange service, exchange access service or CMRS service in the 847 NPA, when it intended to commence offering service, and whether it was requesting assignment of an 847 NXX code. Those carriers responding affirmatively that they intended to offer service within the 847 NPA in the foreseeable future and requesting assignment of an 847 NXX code would have an 847 NXX code reserved for them. Those entities not responding or responding that they would not require an 847 NXX code would not receive a code, and no code would be reserved for them. Ameritech Illinois states that in this way, the number of NXX codes needed for new

entrants could be reduced to a finite number. Ameritech Illinois attached its proposal for such a letter to its Initial Brief.

Fourth, Ameritech Illinois recommends that the Commission should not attempt to prescribe in its order a specific date for final implementation of the overlay NPA and commencement of mandatory 11-digit local dialing. Instead, Ameritech Illinois recommends that the local number administrator should be authorized to begin assigning NXX codes from the 224 overlay NPA only when the last available 847 NXX code has been assigned. Ameritech Illinois states that the initial 224 NXX code(s) assigned should not be given activation dates sooner than three months after the date of assignment, and mandatory 11 digit local dialing should begin on the agreed-upon activation date of the first 224 NXX code. Ameritech Illinois states that the local number administrator should give the Commission, the industry and other interested parties immediate notice (or advance notice, if possible) of the first assignment of a 224 NXX code and the agreed-upon effective date of that code, so that carriers can begin their customer education programs.

Ameritech Illinois stated that under this four point proposal, the life of the 847 area code would be extended for as long as possible, mandatory 11 digit local dialing would be delayed for as long as possible, controversy over the projected exhaust date would be reduced, area code relief still would be available when it is needed, and this docket could be concluded.

## **STAFF**

Staff asserts that although the FCC, in its Order determined that the Illinois number pooling trial falls outside of the guidelines adopted by the FCC, it granted Illinois "limited authority" to continue its pooling initiative despite its mandatory nature. However, Staff notes that the FCC was silent on the conservation measures ordered by the Commission in the Area Code Order. In Staff's opinion, if the FCC had determined that the conservation measures ordered by the Commission in its Area Code Order were in violation of the FCC's policies, rules or regulations, the FCC would have clearly indicated. Staff notes it did not.

Staff takes the position that the Commission should not require the return of thousand blocks, nor order the increase in the contamination threshold of thousand blocks to be returned, nor require the return of NXX codes. Staff asserts that while it is unclear whether the FCC Order prohibits the Commission, under the FCC's grant of limited authority to Illinois, from taking such actions, Staff recommends the Commission not do so at this time. Staff notes that from a policy perspective, mandatory give back could be warranted. However, the Commission should take notice that the mandatory give back of any resources is likely to dramatically alter carrier forecasts, their need for numbers, and their ability to get numbers compliant with the Commission's conservation measures due to depleted number inventories. Any benefit of mandating thousand block give back might be negated in part or in whole. In the alternative, Staff recommends the Commission seek clarification on the matter from the FCC.

Staff witness Struthers testified that an increase in the contamination threshold would also have a prejudicial impact on newer carriers with relatively few numbering resources and higher fill rates. [Staff Ex. 1.0, pp.15-1.] Mr. Struthers further testified, in agreement with Ameritech Illinois witness Baldwin, that a decision by this Commission to order an increase in the contamination threshold requirement for number pooling in the 847 NPA would be inconsistent with the number pooling standards being proposed for adoption on a national basis. [Staff Ex. 1.0, pp.3-14; Ameritech 111. Ex. 1.0, p.11.]

With respect to the enforcement of the conservation measures ordered in the Area Code Order, Staff avers that the Commission has the underlying jurisdiction, pursuant to state law, to enforce its orders provided the Commission orders do not violate the restrictions set forth in Section 10-201 (e)(iv) of the Illinois Public Utilities Act. 220 ILCS 5/10-201.

With respect to carrier compliance with conservation measures Staff has cited instances in which two carriers are non-compliant with the Commission Ordered conservation measures. Staff states that each is non-compliant with respect to conservation measure number four. Staff notes that conservation measure number four states: "A code holder must file a Confirmation of Code Activation with the administrator within 90 days after the code is activated. NXX codes not activated in a timely manner are subject to reclamation by the number administrator." Staff states that one of the non-compliant carriers is in the process of activating its single code that has stood inactive for more than 90 days. Staff states that the second carrier is non-compliant due to circumstance largely beyond its control; its switch vendor has delayed installation of its switch. Therefore, Staff recommended no action against either of the carriers who were non-compliant with the Commission's conservation measure number four.

Regarding the other conservation measures, Staff averred in its testimony that it did not have the proper resources to determine whether a carrier was in compliance with the conservation measures. To do so would require the Staff to collect data from a carrier relevant to the date on which Staff were to claim that carrier was not in compliance with the Commission measures. Staff asserts that it would also require the collection of data at a level never collected by the current number administrator and would rely on timely and accurate data provided by carriers. Staff states that failure to follow these processes could result in inaccurate information and cause Staff to mistakenly assert carrier noncompliance.

As a practical matter, Staff believes that the collection of data on a quarterly or even monthly basis would not provide the accuracy of data required for the Commission to order the reclamation of numbers. However, Staff would agree that the collection of data on a quarterly basis will allow Staff to ascertain general carrier compliance with the conservation measures and to seek out instances wherein carriers may be in violation of such. In such instances, Staff states that it could seek to work informally with the carriers to determine if formal proceedings might be needed or if the noncompliance is a result of some statistical anomaly.

For the collection of data on a quarterly basis, Staff would also propose the use of a more standard data request which has been developed by the State Issues Task Force ("SITF") and will be attached to the Number Resources Optimization Working Group's report to the NANC and the FCC. The report was finalized and presented to the FCC on September 23, 1998. The use of a more standardized report would allow Staff to collect and manipulate data electronically, thereby avoiding the mistakes associated with manual data entry. Further, a more defined data request, such as that developed by the SITF would help Staff to avoid many of the needed data corrections made by both Staff and CUB in this docket.

Staff also concurs with the recommendations of AT&T, Cellular One and, Nextel that the Commission, in light of the September 1, 1998, order released by the Wireless Telecommunications Bureau under delegated authority, which delays the implementation date until March 31, 2000, for wireless carriers to be LNP capable, should revisit its Area Code Order and make the appropriate adjustments in order to be consistent with the FCC's order.

Although the Commission, in its Area Code Order required number pooling initiatives and conservation measures to be employed in the 773, 312, 708 and 630 NPAs once it becomes technically feasible, it is unclear whether this requirement, if implemented, would run afoul of the FCC's grant of limited authority to the Commission. Therefore, Staff recommends that the Commission seek clarification on the matter from the FCC.

Furthermore, although the 847 number pooling trial has an official end date of March 31, 1999, certain parties have intimated that the number pooling trial must cease on this date. (See, AT&T Br at 6 and Allegiance Br. at 2) Staff opposes this position and would note that if the Commission were to adopt this recommendation, it would necessitate the redistribution of all the previously assigned thousand blocks. Furthermore, to the extent that customers had been assigned numbers from pooled thousand blocks during the trial, those numbers may need to be taken back, and new numbers provided to the customers. Ending the trial in this manner would be disruptive to carriers and customers alike. Staff does not believe the FCC had this type of action in mind when it granted the Commission its limited authority. Therefore, based on the foregoing, Staff recommends the Commission clarify this matter when it enters an order in this proceeding.

Finally, Staff concurs with the recommendations made by Cellular One and Nextel that the Commission, in order to be consistent with the FCC's Order, should establish an appropriate date for implementing the 224 NPA overlay code in this proceeding. By doing so, the Commission can negate any arguments that it has, some how, run afoul of the FCC's Order with respect to the conservation measures of the Area Code Order.

### **AT&T**

AT&T argues that, per the FCC Order, state commissions cannot order mandatory number pooling, the mandatory return of thousands blocks or the mandatory return of NXX codes. AT&T further argues that the Commission's grant of limited authority is restricted to the 847 NPA. AT&T also recommends that the Commission revisit its order entered on May 6, 1998, in the Area Code Order for the purpose of amending the date when wireless carriers are required to implement LNP in Illinois.

In its Initial Brief, AT&T addresses the issue of the possible release of the reserve of NXX codes for new carriers. AT&T notes that the FCC requires the reserve of at least one complete NXX code for each carrier certificated in an overlay area more than 90 days before the overlay code becomes operational. (FCC Second Report and Order, CC Docket No.96-333, par. 286-87 (August 18, 1996).) AT&T further notes that because 3-4 carriers are currently being certificated per month, reserving a full code for each new carrier is a serious drain on numbering resources. Accordingly, AT&T recommends that the Commission direct the Number Administrator to send certified letters to each new facilities-based entrant. AT&T asserts that the letter should state that the NXX code reserved for that carrier will be released unless that carrier certifies in writing to the Number Administrator within 14 days that the new entrant has a need for an 847 NXX code. AT&T also recommends that new entrants be given the option of receiving 10 thousands blocks in lieu of a single, complete NXX code.

### **Cellular One**

Cellular One argues that although the FCC affirmed the Commission's number pooling trial in the 847 NPA, the Commission cannot mandate the return of thousand blocks, without regard to the level of contamination, nor can the Commission mandate the return of NXX codes. Cellular One also argues that the FCC Order requires the Commission to set an NPA relief date in order to support the Commission's Order of conservation measures in the 847 NPA. Finally, Cellular One also recommends that the Commission revisit its Area Code Order for the purpose of reconciling the date by when wireless carriers must implement LNP in Illinois.

In its Initial Brief, Cellular One noted that there was substantial industry consensus on the return of thousands blocks. Before the FCC decision, there was no substantial opposition among wireline carriers that they should return thousand blocks with 10% or fewer working numbers, so long as they may retain sufficient numbering resources for their own forecasted use over the next six months. Cellular One argues that withholding these

blocks for near term use will save resources because it will avoid the unnecessary churning and administrative costs that would be caused by carriers submitting blocks to the pooling administrator and then asking to have them returned as pooled blocks a few weeks or months later.

Cellular One notes that difficult administrative issues are raised by the FCC's direction that an NXX code be reserved for each new LEC whose certificate includes authority for facilities based service and encompasses an NPA subject to an overlay. Cellular One further notes that since LEC certificates are based on a request for as much authority as possible, this frequently result in LEC's that have facilities based authority, but no short term intention to install facilities and LECs that have statewide authority, and no short term intention to compete in a particular NPA. Cellular One states that there are over 30 newly-certified LECs that are entitled to have a code reserved for them in the 847 NPA, although only nine have affirmatively requested a code. Cellular One believes that this problem can be addressed by the Commission directing its Staff to inquire of al newly certificated LEC's whether they have any intention of using and 847 area code and by the Commission directing that any carrier which does not give a timely and affirmative response to the request would forfeit its right to the reservation.

### **Nextel**

In its brief, Nextel asserts the following points; a) the Commission's number pooling trial is limited to the 847 NPA; b) the Commission cannot order a return of NXX codes or thousand blocks; and c) to the extent that the Commission has any authority to enforce the conservation measures adopted in its Area Code Order, it may do so at this time only for the 847 NPA and only if the Commission has established an appropriate date for implementing the 224 NPA overlay code. Finally, Nextel also recommends the Commission amend its Area Code Order to reconcile the date when wireless carriers must be LNP capable.

In its Initial Brief, Nextel argues that any decision to mandate the return of NXX-X thousand blocks at this time, however, cannot be applied to wireless carriers. Nextel asserts that it is undisputed that wireless carriers will be unable to participate in number pooling (and, therefore, should not be required to donate thousand number blocks to the number pool) prior to the implementation of wireless LNP. Nextel notes that in light of the possibility "that additional technical difficulties may arise as the industry begins to focus on the provisions of portability," the FCC also delegated to its Wireless Telecommunications Bureau (the "Bureau") authority to extend the June 30, 1999 target date for wireless LNP as "necessary to enhance the efficient development of number portability, for a period not to exceed 9 months." First Report, par. 167; 47 CFR § 52.31(c)). Pursuant to its authority, the Bureau recently granted an extension of the deadline for implementation of wireless LNP until March 30, 2000. In the Matter of Telephone Number Portability Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association, CC Docket No.95-116, DA 97-2579, Memorandum Opinion and Order (Sept. 1, 1998).

Nextel also argues against an increase in the "contamination threshold for any NXX-X thousand blocks to be returned" to the Pool Administrator. Nextel states that there are significant technical and administrative burdens associated with the give back of thousand blocks with higher levels of contamination and raising the contamination threshold will decrease the utility of thousand blocks assigned to carriers from the number pool, thereby significantly reducing the overall efficiency of number pooling. Nextel also believes that carriers should not be required to return any thousand blocks required to meet near-term needs.

### **BeeperMart**

BeeperMart recommends that the Commission adopt an Order in this proceeding that exempts paging carriers from: (i) all number porting and pooling requirements; (ii) the obligation of responding to data requests that seek to determine how many number blocks or individual telephone numbers may be recovered from such carriers through pooling or porting; (iii) mandatory NXX-X thousand block number returns; and (iv) additional number conservation measures in the Area Code Order, which are designed to facilitate thousand block number returns to the pooling administrator - namely, requiring 90 per cent of the numbers in a thousand block to be assigned before another block can be open; prohibiting assignments in any thousand number block with 50 or fewer numbers in use until 90 per cent of the numbers in all other thousand blocks in that Code have been assigned; and mandating a legitimacy certification to the number administrator before opening an additional thousand block in an existing Code.

### **CUB**

CUB and AG filed a joint supplemental brief on the issue of the effect of the FCC Order. CUB/AG argue that although the FCC declined to delegate to state commissions the authority to administer NXX codes, the Commission specifically authorized Illinois to continue what it views to be a mandatory number pooling initiative. CUB/AG argues that the clear language of the FCC Order recognizes the Illinois Number Pooling and Conservation Order as both "mandatory" in nature and "outside of the guidelines" adopted in the FCC Order, but nevertheless worthy of FCC approval, support and commendation. CUB notes that in paragraph 30 of the FCC Order, for example, the FCC held:

Although the Illinois number pooling trial falls outside of the guidelines that we adopt herein, we acknowledge Illinois has taken steps to ensure that the trial will not impede our NPA relief guidelines and efforts to initiate national number pooling standards. We therefore grant to Illinois limited authority to continue its pooling initiative, in spite of the trial's mandatory nature.

CUB/AG argue that this portion of the Order makes it clear that a mandatory number pooling/conservation Order like that issued on May 11, 1998 in Illinois and an Order in this

docket mandating the compulsory return of thousands blocks that are 10% or less contaminated in an effort to ensure that wireline carriers are living by the mandates of the original Number Pooling and Conservation Order in no way impinges on national efforts to establish a national number pooling solution.

Moreover, CUB/AG further argue that a careful reading of paragraph 24 of the FCC Order reveals that the FCC's prohibition on the return of NXX codes or thousand number blocks to the code administrator specifically does not apply to Illinois. The relevant language reads:

We clarify that state commissions do not have the authority to order return of NXX codes or 1,000 number blocks to the code administrator. First, a state commission may not order such a return pursuant to a pooling trial. As discussed below, we decline to grant states the authority to order mandatory number pooling. Thus, states do not have the authority to order the return of a partial or entire NXX code or a 1,000 block as part of a number pooling trial. Further, a state commission may not order the return of an NXX code or a 1,000 block pursuant to a number rationing scheme implemented as part of a state-ordered area code relief plan. Such actions fall outside of the authority granted the states to initiate traditional area code relief, and would interfere with the code administrator's functioning pursuant to rules delegating to the code administrator the authority to manage the United States CO code numbering resource.

FCC Order at 18, par. 24 (emphasis added). CUB/AG argue that a closer look at the two highlighted sentences above reveals that the FCC's prohibition on ordering a return of partial NXXs is directly linked to the FCC's prohibition on mandatory number pooling trials, as the use of the word "(t)hus" at the beginning of this second sentence reveals. CUB AG assert that the FCC carved out an exception for the Illinois number pooling initiative in paragraph 30 of its Order despite its acknowledgment that the Illinois initiative is mandatory and outside of the area code relief guidelines issued in its September 28th Order. CUB/AG argue that it follows, too, then that the prohibition on ordering a return of partial NXXs likewise does not apply to Illinois.

In its initial brief, CUB requests that the Illinois number pooling trial continue with the following steps: (1) mandatory return of thousands blocks that are 10% or less contaminated; (2) mandating quarterly reporting by all NXX code holders in the Chicago area of thousands block fill rate data to the Commission and eventual number administrator Lockheed Martin; (3) publication of the ICC-ordered number pooling and conservation measures in the Number Pooling Guidelines and in materials distributed to NXX code applicants; and (4) requiring written certification from carriers of compliance with the mandated conservation measures. CUB/AG argue that these steps amount to the minimum

initiatives the Commission must take in order to make informed decisions about whether carriers are abiding by the dictates of the Area Code Order and when implementation of the backup overlay should occur.

### **AG**

In its Initial Brief, AG notes that no party filed a Motion to Dismiss CUB's number pooling petition for lack of jurisdiction. AG further notes that although some parties have expressed doubts regarding the Commission's jurisdiction over local numbering issues, none have considered the legal grounds challenging compliance with the May Area Code Order. AG also notes that no party appealed the May decision to any judicial or regulatory body. Accordingly, AG argues that no party has pursued a valid legal challenge to any aspect of the Area Code Order that could excuse compliance on the part of NXX holders.

AG takes exception to Beeper Mart's argument that since paging companies are not subject to local number portability requirements paging companies therefore need not comply with the Commission's number conservation requirements. AG argues that regardless of whether paging carriers ever become subject to local number portability requirements, they are still subject to the Commission's number conservation requirements. AG asserts that the purpose of the Commission's mandated conservation measures is to create greater efficiency in the administration of telephone numbers not, as Beeper Mart suggests, to protect NXX-X blocks for number pooling. AG argues that the specific provisions of the Commission's number conservation and number pooling Order are therefore mandatory and must be obeyed unless otherwise reversed, or unless the Order itself is declared void.

AG maintains that the Commission must enforce its pooling and conservation directives. AG asserts that this can only be accomplished through the regular, systematic collection of fill rate data, which is the only viable method available to evaluate conservation efforts over a period of time. AG supports CUB's recommendation that the Commission order the collection of carrier fill rate data on a quarterly basis from NXX code holders.

### **CCSA**

Similar to CUB/AG, CCSA argues that the FCC Order demonstrates the Commission's authority to mandate number pooling and the return of thousand number blocks. CCSA also avers that the FCC Order supports their argument that the Commission's number pooling initiative is not voluntary. CCSA further avers that the FCC's decision supports CCSA's position that rate center consolidation must be considered in this docket as a supplement to the Illinois number pooling initiative.

In its Initial Brief, CCSA argues that industry carriers have failed to comply with the Commission's May 11th Order. CCSA cites Mr. Glynn's testimony which determined that only about 26% of the thousands blocks in wireline carriers' possession that are available for pooling have been turned over to the Number Pooling Administrator. CCSA states that

Mr. Glynn's analysis of the number utilization data submitted by all wireline carriers shows that 1531 thousands blocks qualify for submission to the Number Pooling Administrator. CCSA states that according to Lockheed Martin's records, however, the wireline carriers have only released 397 thousands blocks to the Number Pooling Administrator for pooling. CCSA states that carriers have only released about a quarter of the blocks of numbers that the Commission's Order requires them to release is a clear example of the industry carriers' disregard for the Commission's authority.

CCSA also states that carriers are not complying with the Commission's order that carriers may not request new blocks of numbers from new NXX codes requested for growth until at least 75% of the numbers in that carrier's existing NXX codes have been used. CCSA suggests that if the Commission enforced the mandatory conservation measures, the rate of telephone number exhaustion would drop significantly lower than current carrier forecasts indicate

CCSA argues that the Commission should take the following steps to ensure that ten digit dialing is not imposed on northern Illinois unnecessarily: First, CCSA asserts that the Commission must take an active role in enforcement. CCSA asserts that the Commission should scrutinize every code block and certified carrier in NPA 847 to postpone assignment of new codes as far into the future as possible. CCSA argues that to facilitate conservation, the Commission should order the Number Plan Administrator to require written certification that all number conservation requirements have been met before granting additional number resources to a carrier.

Second, CCSA suggests that the Commission should amend the Local Number Administrator's and Number Pooling Administrator's written guidelines to include the number conservation mandates. Further, CCSA asserts that the Commission should amend the Number Administrator's guidelines to make it compulsory for 847 NXX code-holders to donate qualifying thousands blocks to the pool.

Third, CCSA suggests that the Number Plan Administrator and carriers subject to this docket should be required to file regular reports on a monthly basis disclosing the number utilization data as set forth in Appendix B of the Commission's June 29, 1998 Order. Furthermore, CCSA asserts that Staff, Illinois Bell Telephone Company as

Number Administrator, and CUB should continue to file progress reports every 45 days reflecting the success of number pooling in accordance with the Commission's Order. Order at 37, ICC Docket Nos. 97-0192/97-021 1.

Finally, CCSA argues that the Commission should impose fines on all carriers who do not comply with the conservation measures ordered in ICC Dockets 97-0192/0211 pursuant to Section 5-202 of the Public Utilities Act. According to CCSA, this is the most effective way to ensure that the number resources are preserved for as long as possible.

CCSA also suggests that the Commission should order carriers to contribute all 1000 blocks with less than 10 percent contamination. CCSA asserts that the Commission should strengthen its previous conservation order by requiring donations of blocks with up to 20 percent contamination until the initial pool has a nine month inventory. Further, CCSA argues that the Commission should order that blocks with the highest levels of contamination be utilized in descending order until each reaches the 90 percent threshold. CCSA states that applicants for resources should certify that their need for numbers in the next three months cannot be satisfied with contaminated blocks in inventory.

With respect to the FCC requirement that codes be reserved for new LECs, CCSA contends that the FCC did not anticipate number pooling in ordering the assignment of a full NXX to certificated providers in an NPA with an overlay code. CCSA argues that the Commission has the authority as area code relief planner to order the number administrator to release codes reserved for new carriers. CCSA states that the Commission fulfills its obligation to new entrants by making blocks available to each new entrant in an 847-NXX code that was previously unopened and was reserved for that provider. Accordingly, CCSA asserts that each LNP-capable new entrant would be a Local Exchange Routing Guide assignee for its new 847-NXX, but would have to certify a need for each of the blocks, 0000-0999; 1000- 1999; 2000-2999, etc., 2000-2999, etc. Remaining blocks would be placed in the pool. CCSA states that new entrants can apply for 10 blocks, or a full NXX code, by certifying the need for 1 0,000 numbers in the appropriate time frames. Blocks remaining unassigned to the new entrant should be pooled.

### **MCI**

In its brief, MCI takes a position similar to that espoused by CUB/AG and CCSA arguing that the FCC Order explicitly recognized and authorized the Commission's number pooling trial to continue, even though the FCC declined to grant other states the authority to conduct mandatory number pooling trials. Consistent with its position taken during the pendency of the instant proceeding, MCI also encourages the Commission to increase the contamination levels of NXX-X thousand blocks that should be used in the number pooling trial.

Like CCSA, MCI also argues that the commission should require that contamination levels of NXX-X thousand blocks to be returned for pooling be increased, as necessary, to ensure that the pool maintains enough telephone numbers to satisfy demand for a six

month period. MCI asserts that increasing the contamination level of NXX-X thousand blocks would increase the amount of telephone numbers that would be made available for use by all wireline telecommunications carriers in the 847 NPA. MCI further argues that increasing the numbers that are available to all wireline carriers in the 847 NPA through number pooling will forestall the need to implement any area code relief for some additional period of time. MCI maintains that if the 10 percent contamination level is changed so that carriers with NXX-X thousand blocks that have a higher fill rate are required to return those codes back for use in pooling, that will make available a larger base of pooled numbers available for reassignment and thereby increase the length of time that number pooling would be able to delay the need for area code relief.

MCI disagrees with arguments of Ameritech Illinois and Staff that raising contamination levels may require additional work and that the additional burdens that may be experienced by the industry outweigh the benefits of increasing contamination levels. MCI argues that the Commission must weigh the prospects of prematurely imposing mandatory 11-digit dialing on residence and business customers in the 847 NPA versus the technical and administrative burdens that may be placed on members of the industry by raising the contamination levels of NXX-X thousand blocks that should be returned for use in number pooling. MCI asserts that the concerns raised by Ameritech Illinois and Staff do not outweigh the burden of mandatory 11-digit dialing on residential and business customers in the 847 NPA.

MCI does not advocate a specific percentage on what the contamination level ought to be. MCI argues that the Commission should determine that the contamination levels of NXX-X thousand blocks that must be returned for use in number pooling should be as high as necessary to ensure that the number pool for the 847 NPA maintains enough telephone numbers at all times to satisfy projected demand for telephone numbers in every rate center in 847 for a six month period, consistent with the Illinois Number Pooling Guidelines. MCI states that in order to achieve this objective, the Commission should conclude that the contamination level of NXX-X thousand blocks to be returned to the pool be progressively increased, as needed. In other words, MCI asserts that the contamination levels should be increased from 10 percent to 20 percent as soon as the level of numbers within the pool drops below the level that is required to satisfy six months worth of projected demand. The contamination level would then be increased to 30 percent at the time the level of numbers within the pool drops below the level to satisfy six months worth of projected demand. MCI asserts that this progressive increase of contamination levels would continue until a 90 percent contamination level is achieved.

## **Allegiance**

Allegiance argues that the FCC Order requires the rejection of a mandatory thousand block give-back requirement. However, with respect to the conservation measures contained in the Commission's Area Code Order, Allegiance believes that all carriers should comply with said conservation measures and participate in the number pooling trail.

Allegiance contends that carriers should not be required to give back thousand blocks in the single NXX to which the FCC has stated they are entitled or thousand blocks in any other assigned NXX for which they forecast a need within six months. Allegiance notes that the FCC adopted the rule that carriers must be allowed to retain one full NXX code in an NPA in which an overlay is being added. (FCC Local Competition Order, par. 286) Allegiance states that this rule contains no provision for "waivers, modifications or exemptions." Allegiance asserts that the FCC has stated that carriers are entitled to at least one NXX code in order to enable them to give at least some of their customers numbers in a familiar area code. (FCC Local Competition Order, par. 286) Allegiance states that if thousand blocks from that one NXX code are immediately taken back by the pool, then this requirement would be eviscerated since carriers could conceivably be left with few or no numbers in the older, familiar area code.

Allegiance agrees with Staff and opposes an increase in the 10% contamination level since such an increase would result in negligible benefits, create technical problems and would depart from the national standard. Allegiance argues that higher contamination levels may result in more numbers being made available, those numbers would include fewer usable blocks of consecutive numbers, which business customers demand. Allegiance maintains that the efficiency of pooling would be reduced since the utility of pooled thousand blocks would be decreased.

Allegiance also agrees with Staff that raising the contamination level would create technical problems which could limit the benefits of number pooling. Allegiance asserts that the type of progressive increase in contamination level proposed by Cook County creates even greater technical problems and would be inconsistent with national guidelines.

Finally, Allegiance argues that the 224 overlay should be implemented, without any further commission proceedings, when no 847 NXX codes remain to be assigned. Allegiance respectfully suggests that the Commission finally resolve in this proceeding the issue of when the overlay will be added without identifying the exact exhaust date and without the need for additional litigation.

#### IV. COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that the FCC Decision does not preclude this Commission from ordering a mandatory return of thousand blocks to the number pooling administrator. The FCC decision is clear in its language stating that the Illinois plan, while inconsistent with the FCC's position against mandatory number pooling, could continue. If the FCC sought to prohibit the Illinois Number Pooling Plan from including mandatory return of thousand blocks, we believe that it would have specifically stated so in its Order. Similarly, if the FCC opposed the conservation measures adopted in the Area Code Order, it would have stated so. While this Commission's previous Order did not specifically order a mandatory return of thousand blocks, it was certainly implied that the concept of number pooling includes the return of thousand blocks.

The Commission's Order adopted number pooling as largely defined by CUB. One of the assumptions set forth by CUB was listed in the Order on Page 6 of the Order:

(4) that all NXX-X blocks with 5% or fewer assigned numbers in every wireline carrier's possession will go into a rate center pool when pooling is implemented;

In addition, findings seven and eight of the Order provide that number pooling was adopted as outlined by CUB in its Petition. Accordingly, the number pooling plan adopted by this Commission included concept of returning thousand blocks to the number administrator.

It was not clear from the conclusion in that Order whether wireline carriers were obligated to return thousand blocks to the number pooling administrator. The reason for this lack of specificity is that number pooling is a new concept. The issue of whether the return of thousand blocks must be mandated was not foreseen by either the Commission or the parties to that docket. Mandatory return of thousand blocks became an issue when carriers did not return thousand blocks to the number pooling administrator as was first contemplated. Because the Order was not specific and the law had not been developed on this issue, it became an issue that led to the instant investigation. Parties that imply that mandatory return was rejected by that Order are mistaken.

In addition, the FCC Order's language at paragraph 24 indicates that the FCC understands mandatory number pooling to include mandatory return of thousand blocks:

We clarify that state commissions do not have the authority to order return of NXX codes or 1,000 number blocks to the code administrator. First, a state commission may not order such a return pursuant to a pooling trial. As discussed below, we decline to grant states the authority to order mandatory number pooling. Thus, states do not have the authority to order the

return of a partial or entire NXX code or a 1,000 block as part of a number pooling trial.

Emphasis supplied. The word “thus” indicates that mandatory return of codes is a subset of mandatory number pooling. This is a natural reading of the FCC’s language.

In its Order, the FCC was silent about mandatory return of codes in Illinois. The FCC Order contains strong language on its position against mandatory return of codes. With the Illinois Order lacking specific language addressing this issue, the FCC would have specifically addressed this issue if it felt that mandatory return could not be part of the Illinois plan. In conclusion, if the FCC did not want the Illinois Plan to include the mandatory return of codes, it would have stated so in its Order.

Accordingly, the Commission is of the opinion that wireline carriers must return NXX thousand blocks that have 10% or less contamination. The record clearly indicates that this return of thousand blocks will delay the exhaust of the 847 area code. This fact is undisputed. It is also clear that number pooling will not significantly delay the 847 exhaust without a mandated return of thousand blocks. The Commission and the parties to this docket have invested significant resources to make number pooling feasible in Illinois. Mandatory return of thousand blocks will insure that the Illinois number pooling trial will move forward and provide this Commission and other jurisdictions that are observing the Illinois plan with valuable information regarding the efficient administration of numbering resources.

The Commission, however, agrees that carriers can retain those codes that they expect to use within six months of this Order. It would be inefficient to have carriers return codes only to request them soon thereafter. The marginal benefit of having more codes up front for the pooling administrator does not outweigh the administrative burden of having codes move back and forth.

The Commission also rejects raising the contamination level to a level higher than 10%. Raising the level of contamination would increase existing technical and administrative burdens on carriers. The record indicates that the identification of blocks that would be eligible for number pooling and the porting of assigned numbers back to itself, requires the work and coordination of several departments within a carrier's organization. This is an especially heavy burden to a CLEC that may not have the personnel necessary to comply in a reasonable time period with a Commission order raising contamination levels in NXX-X thousands block for pooling.

The Commission adopts the original proposal of Ameritech Illinois, with some changes, regarding the release of NXX codes reserved for new entrants. The Commission is of the opinion that the reservation of codes for carriers that will most likely never request them is not an efficient use of numbering resources. The Commission directs the number administrator to send a certified letter to all of the currently authorized telecommunications

carriers and CMRS providers and to all of those entities currently seeking local exchange certification from the Commission or planning to provide CMRS services.

As Ameritech Illinois originally proposed, the letter would explain the FCC rule and the jeopardy situation in the 847 NPA. The letter would inform the recipient that an NXX code is reserved for them in accordance with FCC guidelines. However, the letter would also require the recipient to inform the number administrator in writing within a 28 days whether it intended to provide local exchange service, exchange access service or CMRS service in the 847 NPA, when it intended to commence offering service, and whether it was requesting assignment of an 847 NXX code. The carrier's response must also make a statement indicating a need for the code within the next three months. Those carriers responding affirmatively that they intended to offer service within the 847 NPA in the foreseeable future and requesting assignment of an 847 NXX code would not lose their reserved 847 NXX code, if they state that they will need the code within three months of their response. Those entities not responding or responding that they would not require an 847 NXX code would forfeit their reserved code.

The Commission agrees with CUB that there has not been full compliance with Commission ordered conservation measures. The Commission, therefore, adopts CUB's recommendations on this issue. Accordingly, the Commission adopts the following: 1) the Number administrator and the number pooling administrator shall amend their respective written guidelines to include the number conservation mandates, 1) The Number Administrator shall provide all code applicants in the 847, 630, 708, 312, and 773 NPAs with a copy of the number conservation measures ordered by the Commission in its May 11, 1998 order in ICC Dockets 97-0192/97-0211 (cons.) as part of the governing requirements for assignment of NXX codes in those NPAs, along with the Central Office Code (NXX) assignment guidelines; 2) the Number Pooling Administrator's guidelines shall be amended to make donations to the number pool of qualifying thousands blocks compulsory, subject to the carriers needs within the next six months; 3) carriers are to provide, within 45 days of this order, the number administrator and number pooling administrator written certification that they have complied with the Commission's approved conservation mandates; 4) the number administrator and the number pooling administrator shall provide the Commission with a list of carriers that do not submit said certification; and, 5) wireline carriers requesting numbers in the 847 NPA must provide Months to Exhaust worksheets before receiving any thousand blocks; and 6) all carriers serving the Chicago area NPAs shall file quarterly reports of individual carrier number utilization rates by thousand block to be filed with the Commission until March, 1999, and thereafter with the new Local Number Administrator, Lockheed Martin. Upon assuming this collection duty, Lockheed Martin, as Number Administrator, shall submit quarterly reports detailing both individual carrier and aggregate fill rate information to the Commission to assist it in monitoring the industry's compliance with its Number Pooling and Conservation Order. Aggregate fill rate data for wireline and wireless carriers, and a total of assigned telephone numbers from the NPA should be released to the public on a quarterly basis.

The Commission will continue to monitor carriers compliance with the conservation measures outlines in our Area Code Order. The Commission intends to enforce penalties for noncompliance with any mandate in the Order issued in this Docket.

The Commission agrees with Ameritech Illinois that the irreversible act which will trigger final implementation of the all service overlay is the assignment by the local number administrator of the first NXX code from the 224 overlay NPA. The Commission also agrees with Ameritech Illinois that before general assignment of numbers to customers from the overlay code and before mandatory 11-digit local dialing takes effect, carriers must have an opportunity to conduct customer education. The Commission agrees that the minimum period required for this customer education is three months. The number administrator is to notify the Commission within a reasonable time prior to the commencement of the education program.

The Commission is not amending its previous order on the issue of whether number pooling applies to all Chicago area NPAs. The Commission is of the opinion that number pooling is in the public interest and should be implemented in all five Chicago Area NPAs subject to the resolution of Service Control Point ("SCP") capacity issues that must be addressed before number pooling can prudently implemented. The Commission continues to request that Ameritech Illinois, Staff, CUB and any other interested parties specifically address this issue in the reports to be filed as outlined in the Area Code Order.

In addition, the Commission will not exempt paging carriers from the number conservation measures ordered by the Commission in its Area Code Order and from all porting and pooling requirements adopted in connection with any NPA exhaust procedure. Furthermore, all 847 code holders must comply with reporting requirements set forth in this Order.

The Commission recognizes that wireless number portability is being addressed at a national level by the FCC and, therefore, directs wireless carriers to implement number portability in accordance with schedules set by the FCC. Wireless carriers are directed to participate in number pooling as soon as technically feasible after they become number portability capable.

Finally, the Commission rejects the argument of Allegiance that all carriers be assured of receiving a fill NXX code from the 847 NPA. Allegiance and any other new carrier will retain at least a single thousand block in each rate center in which they choose to provide service. The Commission notes that Allegiance cites to the FCC local competition Order which predates the existence of number pooling. If Allegiance's argument were to be followed to its logical extreme, any carrier that entered the market would be given a dispensation from number pooling, and only the incumbent LEC would be obliged to abide by the mandatory give back rule.

## **V. FINDINGS AND ORDERING PARAGRAPHS**

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, is of the opinion and finds that:

- (1) Ameritech Illinois is an Illinois corporation engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over Ameritech Illinois and the subject matter of this proceeding;
- (3) the recital of facts and conclusions reached in the prefatory portion of this Order are supported by evidence of record, and are hereby adopted as findings of fact and conclusions of law for the purposes of this Order;
- (4) on June 29, 1998, the Commission entered an Investigative Order initiating this proceeding to: a) ensure that all 847 NXX code holders subject to the Area Code Order are complying with the conservation measures of the Order; b) specifically identify the irreversible action and determine when it will occur; and c) investigate the possibility of a mandatory NXX-X thousand block return to the number pooling administrator; d) investigate raising the contamination threshold for any NXX-X thousand blocks to be returned; and e) investigate the number administrator releasing the reserve of NXX codes for new carriers;
- (5) the evidence presented in this proceeding supports the mandatory return of all thousand blocks that are 10% or less contaminated by the wireline carriers to the number pooling administrator subject to the condition that carriers may hold such blocks as they forecast as needing within six months of this Order;
- (6) the evidence presented in this proceeding supports a direction that wireless carriers should implement number portability in accordance with schedules set by the FCC and, further, should participate in number pooling as soon as technically feasible after they become number portability capable.
- (7) the evidence presented in this proceeding supports a delay in the implementation of number pooling for the 773, 312, 708 and 630 NPAs until the SCP capacity issue is resolved to the Commission's satisfaction;
- (8) the evidence presented in this proceeding supports the continuance of all of the reporting requirements set forth in the Commission's Area Code Order;
- (9) the evidence presented in this proceeding supports a direction (a) that the Number Administrator provide all code applicants in the 847, 630, 708, 312, and 773 NPAs with a copy of the number conservation measures ordered by

this Commission in its May 11, 1998 Order in Dockets 97-0192/97-0211 (cons.) as part of the governing requirements for assignment of NXX codes in those NPAs, along with the Central Office Code (NXX) Assignment Guidelines; and (b) that the number pooling administrator shall amend its written guidelines to include number conservation mandates within 30 days of this Order;

- (10) the evidence presented in this proceeding supports a direction that the Number Pooling Administrator's guidelines shall be amended to make donations to the number pool of qualifying thousands blocks compulsory, subject to the carrier's needs within six months of this Order;
- (11) the evidence presented in this proceeding supports a direction that all wireline carriers are to provide, within 45 days of this order, the number administrator and number pooling administrator written certification that they have complied with the Commission's approved conservation mandates;
- (12) the evidence presented in this proceeding supports a direction that the number administrator and the number pooling administrator shall provide the Commission with a list of carriers that do not submit said certification within 7 days of the deadline set forth in finding 11;
- (13) the evidence presented in this proceeding supports a direction that wireline carriers requesting numbers in the 847 NPA must provide to the number pooling administrator months to exhaust worksheets before receiving any thousand blocks;
- (14) the evidence presented in this proceeding supports the conclusion that the irreversible act which will trigger final implementation of the all service

overlay is the assignment by the local number administrator of the first NXX code from the 224 overlay NPA;

- (15) the evidence presented in this proceeding supports the conclusion that the minimum period required for this customer education is three months;
- (16) the evidence presented in this proceeding supports the conclusion that the number administrator should notify the Commission within a reasonable time prior to the commencement of the education program.;
- (17) the evidence presented in this proceeding supports the direction that the number administrator send a certified letter to all of the currently authorized telecommunications carriers and CMRS providers and to all of those entities currently seeking local exchange certification from the Commission or planning to provide CMRS services containing information as described elsewhere in this Order;
- (18) the evidence presented in this proceeding supports the direction that all wireline and wireless carriers shall file quarterly reports of individual carrier number utilization rates by thousands block to be filed with the Commission until March, 1999 and thereafter with the new Local Number Administrator, Lockheed Martin.

IT IS THEREFORE ORDERED that all wireline carriers holding NXX codes in the 847 NPA shall return all thousand blocks that are 10% or less contaminated to the number pooling administrator subject to the condition that carriers may hold such blocks as they forecast as needing within six months of this Order.

IT IS FURTHER ORDERED that wireless carriers must implement number portability in accordance with schedules set by the FCC and, further, they must participate in number pooling as soon as technically feasible after they become number portability capable.

IT IS FURTHER ORDERED that parties order to provide reports in the Commission's May Area Code Order shall continue to do so.

IT IS FURTHER ORDERED that the Number Administrator shall provide all code applicants in the 847, 630, 708, 312, and 773 NPAs with a copy of the number conservation measures ordered by this Commission in its May 22, 1998 Order in Dockets 97-0192/97-0211 (cons.) as part of the governing requirements for assignment of NXX codes in those NPAs, along with the Central Office Code (NXX) Assignment Guidelines and that the number pooling administrator shall amend its written guidelines to include number conservation mandates within 30 days of this Order.

IT IS FURTHER ORDERED that the Number Pooling Administrator's guidelines shall be amended to make donations to the number pool of qualifying thousands blocks compulsory, subject to the carrier's needs within six months of this Order;

IT IS FURTHER ORDERED that all wireline carriers holding at least one NXX code in the 847 NPA must provide, within 45 days of this order, to the number administrator and number pooling administrator written certification that they have complied with the Commission's approved conservation mandates;

IT IS FURTHER ORDERED that the number administrator and the number pooling administrator shall provide the Commission with a list of carriers that do not submit said certification within 7 days of the deadline set forth in finding 11;

IT IS FURTHER ORDERED that wireline carriers requesting numbers in the 847 NPA must provide to the number pooling administrator months to exhaust worksheets before receiving any thousand blocks.

IT IS FURTHER ORDERED that all wireline and wireless carriers shall file quarterly reports of individual carrier number utilization rates by thousands block to be filed with the Commission until March, 1999, and thereafter with the new Local Number Administrator, Lockheed Martin.

IT IS FURTHER ORDERED that the irreversible act which will trigger final implementation of the all service overlay is the assignment by the local number administrator of the first NXX code from the 224 overlay NPA.

IT IS FURTHER ORDERED that the minimum period required for this customer education is three months and that the number administrator must notify the Commission within a reasonable time prior to the commencement of the customer education program.

IT IS FURTHER ORDERED that the number administrator send a certified letter to all of the currently authorized telecommunications carriers and CMRS providers and to all of those entities currently seeking local exchange certification from the Commission or planning to provide CMRS services containing information as described elsewhere in this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 16<sup>th</sup> of December, 1998.

Chairman